

COPY

260 N

Felder #2

September 21, 1955

NEW HAMPSHIRE LAW LIBRARY

SEP 22 1998

CONCORD, N.H.

Colonel Ralph W. Caswell,
Superintendent of State Police
Concord, New Hampshire

Re: Your memo of August 1, 1955 to
this office re International
Association of Photographers

Dear Colonel Caswell:

Your memorandum does not provide sufficient
facts to determine if this concern should be registered.

The activities of this concern through its
local resident agent, Lipson, may be interstate transactions
not requiring registration. Pennsylvania Rubber Co. v. Brown,
83 N.H. 336, Campbell v. U. S. Radiator Corporation, 86 N.H.
310, Chickering & Sons & Co. v. Jackson, 86 N.H. 310.

If persons dealing with this corporation and
its agent, Lipson, feel they have a civil cause of action for
misrepresentation or breach of contract, registration of the
corporation is not absolutely necessary to obtain jurisdiction.

Service upon Lipson as agent for this corpora-
tion may be sufficient provided the plaintiff sustains the
burden of showing "doing business" by the corporation in New
Hampshire. Whether a corporation is "doing business within
the State," our courts have said, is one of federal law.
Grace v. Proctor & Gamble Company, 95 N.H. 74. But whether
service may be had is a question of state law. Labonte v.
American Mercury Magazine, 98 N.H. 163.

The dealings by Lipson may be "doing business"
in that sense but the precise facts of his activities in the
corporation's behalf and the extent to which the foreign corpora-
tion becomes subject to service of process depends upon the

C O P Y

Colonel Ralph W. Caswell -- 2.

September 21, 1955

systematic, continuous course of dealings, the extent of its supervision, assistance, and expansion by travelling agents and similar factors. Labonte v. American Mercury Magazine, 98 N.H. 163, Taylor v. Klenzade Products, Inc., 97 N.H. 517.

On the present state of the facts I cannot say that this concern's activities constitute "doing business" to the extent that registration is required.

However, a New Hampshire resident sued in this state may raise the defense that a corporation doing business in this state without appointing the Secretary of State its agent for service of process cannot maintain suit for the purchase price, though such failure alone does not make invalid its contracts. Ensign v. Christiansen, 79 N.H. 353, People's Wet Wash Laundry Co. v. Dubeau, 80 N.H. 544.

Very truly yours,

George F. Nelson
Assistant Attorney General

GFN:L

cc - Harry Jackson, Deputy Sec'y. of State

Enoch Fuller, Sec'y. of State

Encl. - Ltr. 7/28/55 from Lockwood to Caswell
" 7/18/55 " Jackson to Jordan
" 7/22/55 " Jordan to Jackson